



## COMMONWEALTH of VIRGINIA

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**MEMORANDUM**

**TO:** EVELYN B. BROWN  
Executive Director  
Board of Professional Counselors and Marriage and Family Therapists

**FROM:** LYNNE R. FLEMING *Lynne Fleming*  
Assistant Attorney General

**DATE:** August 9, 1995

**RE:** Licensing of Marriage and Family Therapists

Since I will be unable to attend the August 18, 1995 meeting of the Board of Professional Counselors and Marriage and Family Therapists, you have asked for a written explanation of alternative methods by which the Board may license Marriage and Family Therapists under the revisions of Va. Code §§ 54.1-3500 et seq.

The amended statutes contain separate definitions for "practice of counseling" and "practice of marriage and family therapy." The definition of "practice of counseling" is broader and apparently encompasses that of "marriage and family therapy." Va. Code § 54.1-3501(6) also specifies that any individual licensed as a professional counselor may perform marriage and family therapy within the scope of his practice. However, since the definition of "marriage and family therapy" is more narrowly drawn, such individuals may not perform counseling without being licensed as professional counselors.

Most portions of the amendments reference the practices of counseling and marriage and family therapy with an "or", to indicate that they are viewed as separate areas of practice. See, e.g., Va. Code §§ 54.1-3501(2), (3) and (5); 54.1-3506. However, some portions of the amended statutes refer to "professional counseling and marriage and family therapy" as a unit, see, e.g., Va. Code § 54.1-3503 ("The Board of Professional Counselors and Marriage and Family Therapists shall regulate the practice of counseling and marriage and family therapy.")

The Board of Professional Counselors and Marriage and Family Therapists is specifically empowered to "promulgate regulations for the qualifications, education, and experience for

**MEMORANDUM:**  
**EVELYN B. BROWN**  
**August 9, 1995**  
**Page 2**

licensure of marriage and family therapists." Va. Code § 54.1-3505(6). Specific authority also exists for designating specialties within the profession. Va. Code § 54.1-3505(3). The Board's general authority to promulgate needed regulations exists at Va. Code § 54.1-2400(6).

Given these statutory provisions, the following regulatory options are consistent with law:

1. Issue separate licenses for professional counselors and marriage and family therapists: If this option were followed, the Board would develop separate regulations, or a separate portion of existing regulations, pertaining to minimum qualifications for licensure as marriage and family therapists and standards of conduct for that area of practice. This approach is consistent with that followed by the Board of Medicine in licensing chiropractors, physical therapists, and physician's assistants. The Board of Medicine incorporates into its general regulations minimum qualifications for licensure of podiatrists and chiropractors, and has promulgated separate sets of regulations for physical therapists and physician's assistants. Those professions which are incorporated into the general regulations must adhere to all general provisions concerning standards of practice. Separate licenses would be issued for each profession.

2. Issue generic licenses with specialties: Since the name of the Board was changed with the new legislation, it could issue generic licenses in "Counseling and Marriage and Family Therapy" with the specialty noted. For example, the license would read "Counseling and Marriage and Family Therapy (Marriage and Family Therapy)" or "Counseling and Marriage and Family Therapy (Professional Counseling)" or both "Counseling and Marriage and Family Therapy (Professional Counseling) (Marriage and Family Therapy)." While this system might be confusing to outside entities, such as third party payors, it would avoid the need for dual licensure for similar activities.

Promulgation of regulations could be accomplished as discussed above, but minimal qualifications listed for specialty designations rather than separate licenses. Again, it appears that no professional counselor would be required to obtain the specialty designation of marriage and family counseling, as he or she would be permitted to engage in that narrower scope of practice through the existing license. However, anyone who wished to list this separate specialty on his license would be required to meet the qualifications for licensure.

I hope this information is helpful to the Board in its deliberations concerning a course of action for this new group of licensees.